

NEW LICENSURE FEE PROVISIONS

Community Mental Health Services;

Community Residences for Mentally Ill Adults; and

Psychiatric Community Residences for Youth;

Adopted Amendments: N.J.A.C. 10:37-10.1, 10.4, 10.5, 10.7, 10.9; 10:37A-2.1, 2.6, and 2.8; 10:37B-2.1, 2.3, and 2.6.

Adopted New Rules: N.J.A.C. 10:37-10.5; 10:37A-2.2; and 10:37B-2.2.

Authority: N.J.S.A. 30:9A-10 and 21, P.L. 2003, c. 122, and N.J.S.A. 30:9A-19 as amended by P.L. 2003, c.117.

Summary

The Department of Human Services (Department), through the Division of Mental Health Services (Division) requires the licensure of all community mental health programs (N.J.A.C. 10:37-10), all community residences for mentally ill adults (N.J.A.C. 10:37A-2) and all psychiatric community residences for youth (N.J.A.C. 10:37B-2). The licensure requirement extends both to agencies that contract with the Division to provide services to consumers and those ambulatory programs that do not so contract with the Division. Licensure serves the important public interest of ensuring the effective delivery of high quality mental health services to consumers by requiring compliance with standards relating to staff qualifications, life safety requirements,

the nature and content of services delivered, consumer confidentiality protection, consumer eligibility, record-keeping, and other documentation requirements. Licensure carries a value for providers, as it communicates to the public that an individual provider has been deemed to be in compliance with the aforementioned safety and quality standards.

Rules implementing the Department's authority to license providers of community and residential mental health services were promulgated on July 2, 2001 (33 N.J.R. 2310(a)). The State Budget for Fiscal Year 2004 (July 1, 2003 to June 30, 2004) states that "fees derived from the licensing of all community mental health agencies as specified under N.J.A.C. 10:37-10.1 et seq. are appropriated" to the Division "to offset the costs of performing the required reviews." In addition, the statutory provision requiring operators of mental health programs to be licensed (N.J.S.A. 30:9A-19) was amended by P.L.2003, c.117. The amendment grants to the Department the authority to charge fees for initial and renewal licenses issued to providers of community ambulatory and residential mental health programs.

By notice in the New Jersey Register dated September 15, 2003, the Department is proposed the adoption of licensure fees for community mental health programs, community residences for mentally ill adults, and psychiatric community residences for youth. These licensure fees became effective upon adoption in the New Jersey Register dated March 1, 2004.

The fees outlined in N.J.A.C. 10:37-10.5, 10:37A-2.2(b), and 10:37B-2.2(b) are based on applying a formula to the current number of mental health programs that are licensed, with an estimated five percent growth in new programs per year. These fees may increase or decrease in future years depending on any change in the number of programs applying for initial or renewal licenses and the costs of licensing activities.

The licensure fee formula requires that all programs currently licensed to provide community and residential mental health services during Fiscal Year 2004 to pay an annual licensure renewal fee of \$575.00 (except supportive housing residence providers, which will be required to pay \$100.00 per residence) for each program element they operate, plus an additional, reduced fee for each program or site within the program element for which they are licensed. The reduced fee would be 50 per cent of the first license fee within a program element, or \$287.50 (50 per cent of \$575.00). For example, an agency licensed to provide outpatient services at three different sites will pay a total of \$1,150 in licensure fees -- a fee of \$575.00 for the first site, plus a fee of \$287.50 for each of the other two sites. If that agency is licensed to provide additional program elements, the same formula would apply, resulting in additional fees -- for example, if that agency is licensed to operate an adult partial care (APC) program at the same three sites, it would pay a fee of \$575.00 for the first APC site and \$287.50 for each of the two additional APC sites.

Licensure fees for providers of residential programs (except for supportive housing residences) would be assessed in a similar manner. Agencies licensed as group homes on the effective date of the adoption of these regulations to provide residential services would be charged a licensure renewal fee (\$575.00) for the first license to be renewed and a fee of 50 per cent of the initial fee (\$287.50) for each additional license renewal. For example, an agency holding a license for each of five group homes would pay total licensure fees of \$1,725 (\$575.00 for the first site plus \$287.50 for each of the four additional sites).

The licensure fee for agencies providing apartments (APT) or family care (FC) is calculated following a similar formula. A provider would pay a licensure renewal fee of at least (depending on the number of beds) \$575.00 for the first county in which they are licensed to operate, and an additional fee of 50 per cent of the licensure renewal fee (\$287.50) for each additional county license. Agencies providing more than one type of residence within the residential program element (for example, group homes, apartments and family care for adults and residential services for youth) will pay one full license fee and a reduced fee for each additional residential license. Supportive Housing Residences will be assessed a flat \$100.00 fee for each residence.

In addition to the above licensure fees, an agency applying for initial licensure after July 1, 2003 must submit an application fee of \$575.00 for all

programs except supportive housing, which must submit an application fee of \$100.00. This fee is not refundable whether or not the program is eventually licensed.

Every agency with a license will have 30 days from the effective date of adoption of these rules to submit their annual licensure renewal fee for Fiscal Year (FY) 2004; except that, if the FY 2004 license anniversary of a currently licensed program falls between the effective date of the adoption of these rules and June 30, 2004, then their licensure fee must be received 30 days before the license anniversary or 30 days after the effective date, whichever is later. For example, if the adoption is effective on January 15, 2004, a provider with a current ambulatory license that will expire on June 30, 2006 must pay the annual fee before May 30, 2004. Failure to pay the appropriate fees in a timely manner will result in revocation of the license.

A summary of the specific regulatory provisions affected by the adopted amendments and new provisions are summarized below.

1. N.J.A.C. 10:37-10, Community Mental Health Services

Regarding N.J.A.C. 10:37-10, Community Mental Health Services, the following amendments have been adopted. At N.J.A.C. 10:37-10.1(a), the Department has added a new provision to clarify that the purpose of this subchapter is to establish licensure and fee requirements applicable to certain

providers of mental health services. N.J.A.C. 10:37-10.4(a) notifies licensees of the address to which applications and fees must be submitted. N.J.A.C. 10:37-10.4(d) requires that: (1) all mental health programs must pay an application fee or an annual licensure renewal fee; (2) no license will be issued or renewed until the Division has received payment in full of the fee; (3) licensure fees will not be refunded; (4) failure to submit the appropriate licensure fee for currently licensed programs in a timely manner will result in revocation of the license; (5) for renewed licenses, payment of annual licensure renewal fees is due 30 days before the annual anniversary date of the expiration of the license; and (6) for new licenses, payment of the application fee shall be submitted with the application.

Providers may apply to the Division for a waiver from the fee requirement if they meet the preconditions listed at N.J.A.C. 10:37-10.4(e). The fee schedule for ambulatory mental health program licenses is set forth at N.J.A.C. 10:37-10.5. N.J.A.C. 10:37-10.5 through 10.11 have been recodified as N.J.A.C. 10:37-10.6 through 10.12.

Reference to the Program for Assertive Community Treatment (PACT) was added to the list of mental health programs that must comply with licensure and programmatic standards (N.J.A.C. 10:37-10.6(b)6) because PACT standards were adopted (at N.J.A.C. 10:37J) since the most recent adoption of N.J.A.C. 10:37 in 2001. N.J.A.C. 10:37-10.8 has been amended to clarify that mental

health programs must pay the required fee before they can receive a full or provisional license (N.J.A.C. 10:37-10.8(a) and (b)). Also, N.J.A.C. 10:37-10.8(b)1, 2, and 3 were deleted as moot because all programs accredited by a nationally recognized accreditation body or approved by the Division of Medical Assistance and Health Services have now met the licensure requirements of N.J.A.C. 10:37-10. Amendments to N.J.A.C. 10:37-10.10 state that applicants seeking renewal of their licenses must submit the required fees (N.J.A.C. 10:37-10.10(b)) and that the Division may revoke a program's license where the fee is not submitted (N.J.A.C. 10:37-10.10(e)).

2. N.J.A.C. 10:37A, Community Residences for Mentally Ill Adults

Amendments to N.J.A.C. 10:37A-2 include a requirement that applicants pay a fee before receiving a license (N.J.A.C. 10:37A-2.1(b)3), and that a fee accompany an application for initial licensure (N.J.A.C. 10:37A-2.2(a)). Programs which are licensed on July 1, 2003 are not required to pay an application fee in addition to the license fee for Fiscal Year 2004. Fee schedules for initial and renewed licenses issued to providers of group home, apartments, family care and supportive housing residences are set forth at N.J.A.C. 10:37A-2.2(b) and (c). Fees would be as follows: for GHs, \$575.00 for the first GH and \$287.50 for each additional GH; for FCs or APTs, \$575.00 for the first license and \$287.50 for each additional license; for SHRs, \$100.00 per residence for the first license and \$100.00 per residence for each additional license (N.J.A.C.

10:37A-2.2(a)&(d)). N.J.A.C. 10:37A-2.2 through 2.4 are recodified as N.J.A.C. 10:37A-2.3 through 2.5.

Residential providers who are currently licensed are not required to pay an application fee and need not pay a renewal fee until at least 30 days before their existing licenses expire (N.J.A.C. 10:37A-2.2(d)). An amendment to N.J.A.C. 10:37A-2.7(b) states that provisional licenses be subject to the fee schedule at N.J.A.C. 10:37A-2.2. An amendment to N.J.A.C. 10:37A-2.9(b) states that provider agencies must submit fees with their licensure applications and that failure to pay the fees will result in denial of the licensure request.

3. N.J.A.C. 10:37B, Psychiatric Community Residences for Youth

An amendment to N.J.A.C. 10:37B-1.1(b) states that one of the purposes of the subchapter is to establish a licensure fee requirement. N.J.A.C. 10:37B-2.1(a) was amended to update the address to which licensure inquiries must be submitted. A requirement that licensees pay fees is an addition to the list of preconditions for licensure (N.J.A.C. 10:37B-2.1(b)). The last sentence in N.J.A.C. 10:37B-2.1(d), stating that there shall be no licensure fee charged to the provider agency, has been proposed deleted, as it is now inaccurate. The fee requirements for providers of psychiatric community residences for youth are set forth at N.J.A.C. 10:37B-2.2. Licensure renewal fees would be \$575.00 for the first group home and \$287.50 for each additional group home (N.J.A.C. 10:37B-

2.2(b)). N.J.A.C. 10:37B-2.2 through 2.12 have been recodified as N.J.A.C. 10:37B-2.3 through 2.13.

Provisional licensees must comply with the fee requirement (N.J.A.C. 10:37B-2.4(b)). Failure to pay a fee will result in denial of a renewal request (N.J.A.C. 10:37B-2.7(e)).

Full text of the adopted amendments and new provisions follows.

CHAPTER 37. COMMUNITY MENTAL HEALTH SERVICES ACT

SUBCHAPTER 10. LICENSURE OF MENTAL HEALTH PROGRAMS

10:37-10.1 Scope and purpose

(a) The purpose of this subchapter is to establish licensure and fee requirements applicable to certain providers of community mental health services.

(b) (No change.)

. . .

10:37-10.4 Licensure process.

(a) All applications, fees, and inquiries related to licensure of mental health programs shall be made to:

New Jersey Division of Mental Health Services

Bureau of Licensing and Inspections

Capital Center, P.O. Box 727

Trenton, New Jersey 08625-0727

Licensure fee checks shall be made payable to the "State of New Jersey."

(b) (No change.)

(c) (No change.)

(d) A mental health program applying for initial licensure shall pay an application fee in the amount specified in N.J.A.C. 10:37-10.5. After initial licensure, the mental health program shall pay an annual licensure renewal fee in the amount specified in N.J.A.C. 10:37-10.5. No license shall be issued or renewed until payment in full has been received by the Division. No licensure fees shall be refunded. Failure to submit the appropriate licensure fee in a timely manner shall result in revocation of the license. Payment of licensure renewal fees must be received by the Bureau of Licensing and Inspections on or before the expiration date of the issuance of the license. Payment shall be submitted with the application for initial or renewed licensure.

(e) Providers without revenue-generating capabilities may seek a waiver of the license fee requirement from the Division, provided that they comply with each of the following requirements:

1. A previously licensed provider shall submit a written waiver request to the Division at the location referenced above.

2. An initial licensure applicant seeking a waiver of the fee requirement shall submit a waiver request with the licensure application. An existing licensee seeking a waiver for Fiscal Year 2004 shall submit the application for a fee waiver within 30 days of the effective date of this

rule. Existing licensees seeking waivers in subsequent years shall submit the application for a fee waiver annually no less than 60 days before the anniversary date of the expiration of the license; and

3. The written waiver request shall include the following information:

- i. The number of consumers served at the site on a weekly basis;
- ii. The day and hours of operation;
- iii. The program's total budget, including all revenue sources;
- iv. A justification demonstrating that the program would be detrimentally and disproportionately impacted by the fee requirement and that strict enforcement of the fee requirement would result in unreasonable hardship on the mental health program; and
- v. A description of how the fee would adversely affect the health, safety, welfare, or rights of any individual.

10:37-10.5 Licensure fee schedule for ambulatory mental health programs

(a) All providers applying for an initial license for a program not licensed by the State of New Jersey as of July 1, 2003 shall pay an application fee of \$575.00. Checks shall be made payable to the "State of New Jersey." Providers are not required to pay an application fee for programs for which they are licensed under this subchapter as of July 1, 2003.

(b) Providers shall pay, on an annual basis, licensure renewal fees in accordance with the following schedule:

1. Renewal fee for each program element.....\$575.00
2. Fee for every additional program or site license within each program element.....\$287.50

10:37-10.[5]6 Applicable standards

(a) (No change.)

(b) Mental health programs shall comply with the applicable standards for the following mental health services which they provide:

1. Youth partial care services (YPC) at N.J.A.C. 10:37-12;
2. Outpatient services (OP) at N.J.A.C. 10:37E;
3. Partial care services (PC) at N.J.A.C. 10:37F;
4. Youth case management (YCM) at N.J.A.C. 10:37H;
5. Intensive family support services (IFSS) at N.J.A.C. 10:37I; and
6. Programs of assertive community treatment (PACT) at N.J.A.C.

10:37J.

(c) – (e) (No change.)

10:37-10.7 Site reviews

(No change.)

10:37-10.8 Types of licensure

- (a) Mental health programs will receive a full license if [they]:
1. they pay the fee required by N.J.A.C. 10:37-10.5; and
 2. A Division site review determines the program complies with all Level I and the majority of Level II standards.
- (b) A provisional license may be issued whenever a mental health program submits with its complete application the appropriate fee, the Division has reviewed the program's policies and procedures and has conducted a program site tour, and whenever:
1. A program which plans to change its location or add an additional location has submitted a complete licensure application and a program site tour has been conducted; or
 2. A new program that has submitted a complete licensure application, its policies and procedures have been reviewed; and a program site tour has been conducted.
2. (No change.)
 3. (No change.)
 4. (No change.)

10:37-10.9 Waiver

(No change.)

10:37-10.10 License renewal or revocation

(a) (No change.)

(b) A mental health program seeking renewal of its license shall submit a fee in accordance with the schedule delineated at N.J.A.C. 10:37-10.5 to the address indicated in N.J.A.C. 10:37-10.4(a).

(c) (No change.)

(d) (No change.)

(e) The Division may revoke the license, or deny renewal of a license, if the mental health program is not in compliance with licensing rule, does not submit the licensure renewal fee; or if continued operation of the mental health program presents an imminent danger to the health, safety or welfare of any client; or for failure to submit the specified written response to a site review report by the required date; or for failure to correct any identified area of non-compliance within the time frame approved by the Division in the notice of non-compliance.

(f) (No change.)

(g) (No change.)

10:37-10.11 Review of administrative determinations

(No change.)

10:37-10.12 Administrative hearing of appeal

(No change.)

CHAPTER 37A. COMMUNITY RESIDENCES FOR MENTALLY ILL ADULTS

SUBCHAPTER 2. LICENSING, SITE REVIEWS AND WAIVERS

10:37A-2.1 Initial licensing process

(a) (No change.)

(b) To become a licensed PA, an agency shall:

1. Demonstrate the intent and ability to operate a residence in accordance with this chapter;
2. Be a mental health services provider with a service contract with the Division. Such a service contract shall include provisions for the operation of community residences; and
3. Pay the fee(s) required by N.J.A.C. 10:37A-2.2.

(c) (No change.)

(d) The PA shall apply for licensure to the Division. Applications shall indicate the type or types of community residences intended, the specific geographic location in which the residences would be located, and the number of residents to be served. Such application shall be made to the Division at the address in (a) above.

10:37A-2.2 Licensure fees.

(a) Group homes, apartments, and family care providers applying for a new license shall pay an initial application fee of \$575.00. Supportive housing residence providers shall pay an initial application fee of \$100.00. PAs are not required to pay a separate initial application fee for programs for which they are licensed under N.J.A.C. 10:37-10 as of July 1, 2003.

(b) On an annual basis, the PA shall submit with its application for renewed licensure the fee(s) listed at (c) below to the Division at the address listed at N.J.A.C. 10:37A-2.1(a). Checks shall be made payable to the "State of New Jersey." No license shall be issued where payment of this fee has not been received in full by the Division. Failure to pay the fees applicable to an existing license shall result in revocation of that license.

(c) PAs applying for renewed licensure shall pay the following annual licensure renewal fees:

I. For group homes (GH):

i. For the first GH license.....\$575.00

ii. For each additional GH license.....287.50

2. For apartment (APT) or family care (FC) license:

i. For the first APT or FC license.....\$575.00

ii. For each additional APT or FC license.....\$287.50

3. For each supportive housing residence (SHR).....\$100.00

(d) If the Fiscal Year 2004 anniversary of the expiration date of a license falls before, on, or within 30 days after the effective date of this section and the fee is not waived pursuant to N.J.A.C. 10:37-10.4(e), any initial fee and the Fiscal Year 2004 renewal fee shall be paid within 30 days after the effective date of this section. Any other initial application fee, waiver request, or renewal fee shall be paid 30 days before the anniversary date for the remainder of FY 2004 and in each successive year.

N.J.A.C. 10:37A-2.3 Licensing of group homes

(No change.)

N.J.A.C. 10:37A-2.4 Licensing of PA apartments

(No change.)

N.J.A.C. 10:37A-2.5 Licensing family care homes

(No change.)

N.J.A.C. 10:37A-2.6 Licensing supportive housing residences

(No change.)

10:37A-2.7 Provisional license

(a) (No change.)

(b) The Division shall review the application of the prospective PA, assess the fiscal, programmatic, and administrative capabilities of the PA, and determine whether a provisional license shall be issued. A provisional licensee shall be subject to the application fee requirements of N.J.A.C. 10:37A-2.2.

(c) – (f) (No change.)

10:37A-2.8 Waiver of standards

(No change.)

10:37A-2.9 License renewal

(a) – (d) (No change.)

(b) Unless the licensure renewal fee has been waived pursuant to N.J.A.C.

10:37-4 (e), the PA shall submit a licensure renewal fee in accordance with the schedule delineated at N.J.A.C. 10:37A-2.2(c). Failure to pay any portion of a required fee shall result in denial of the application for renewal.

10:37A-2.10 Evaluation and monitoring

(No change.)

10:37A-2.11 Appeal of the Division's findings

(No change.)

10:37A-2. 12 Administrative sanctions

(No change.)

10:37A-2.13 Review of administrative sanctions

(No change.)

10:37A-2.14 Administrative hearing of appeal

(No change.)

10:37A-2.15 Emergency situation

(No change.)

CHAPTER 37B. PSYCHIATRIC COMMUNITY RESIDENCES FOR YOUTH

SUBCHAPTER 1. GENERAL PROVISIONS

10:37B-1.1 Scope and purpose

(a) (No change.)

(b) The purpose of the rules in this chapter is to:

1. Enable licensure and regulation of specialized residences for mentally ill youth.
2. Promote the goal of the residences to provide appropriate mental health services to youth at risk of hospitalization or recently discharged from inpatient care but not ready to return home or reside in a less intensive facility;
3. Promote high quality and effective delivery of funded residential services for youth; and
4. Establish licensure fees.

N.J.A.C. 10:37B-1.2 Definitions

(No change.)

SUBCHAPTER 2. LICENSING

10:37B-2.1 Initial Licensing process

- (a) All inquiries related to licensure of psychiatric community residences for youth shall be made to:

Division of Mental Health Services

Bureau of Licensing and Inspections

Capital Center, P.O. Box 727

Trenton, N.J. 08625-0727

- (b) To become a licensed provider agency (PA), an agency must:

1. Demonstrate the intent and capability to operate a community residence within the provisions of this chapter;
2. Be a mental health provider with a service contract with, or funding from, the Division. Such a service contract shall include provisions for the operation of community residences; and
3. Pay the fee(s) required by N.J.A.C. 10:37B-2.2.

- (c) (No change.)

- (d) The PA shall apply for licensure to the Division. Applications shall indicate the type or types of community residences intended, the specific geographic location in which residences would be located, and the number of residents to be served. Such application shall be made to the Division at the address in (a) above.

10:37B-2.2 Licensure fees

- (a) The PA shall submit the appropriate fee on an annual basis to the Division at the address listed at N.J.A.C. 10:37B-2.1(a). Checks shall be made payable to

the "State of New Jersey." No license shall be issued until payment of this fee has been received by the Division. Failure to pay the annual fee applicable to an existing license shall result in revocation of that license.

(b) A PA applying for a new license shall submit an application fee of \$575.00. A PA is not required to pay a separate application fee for a program for which it is licensed under N.J.A.C. 10:37-10 on July 1, 2003.

(c) A PA applying for renewed licensure shall submit with its application a licensure renewal fee in accordance with the following schedule:

1. Renewal fee for first psychiatric community residence for youth.....\$575.00
2. Renewal fee for each additional psychiatric community residence for youth\$287.50

N.J.A.C. 10:37B-2.3 Licensing of psychiatric community residences for youth programs

(No change.)

10:37B-2.4 Provisional license

(a) (No change.)

(b) The Division shall review the application of the prospective PA, assess the fiscal, programmatic, and administrative capabilities of the PA and determined whether provisional license shall be issued. The PA shall pay the fee(s) required by N.J.A.C. 10:37B-2.2.

(c) – (f) (No change.)

N.J.A.C. 10:37B-2.5 Applicability of standards

(No change.)

N.J.A.C. 10:37B-2.6 Waiver of standards

(No change.)

N.J.A.C. 10:37B-2.7 License renewal

(a) – (d) (No change.)

(e) A PA seeking renewal of its license shall pay the fee(s) required by N.J.A.C. 10:37B-2.2. Failure to pay the required fees shall result in denial of the application for license renewal.

10:37B-2.8 Monitoring compliance

(No change.)

10:37B-2.9 Appeal of the Division's findings

(No change.)

10:37B-2.10 Administrative sanction

(No change.)

10:37B-2.11 Review of administrative sanctions

(No change.)

10:37B-2.12 Administrative hearing of appeal

(No change.)

10:37B-2.13 Emergency situation

(No change.)

...